



## CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute Improvement Deferral Agreement for 27 East Locust Street

**MEETING DATE:** November 16, 2011

**PREPARED BY:** Public Works Director

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**RECOMMENDED ACTION:** Adopt resolution authorizing City Manager to execute Improvement Deferral Agreement for 27 East Locust Street.

**BACKGROUND INFORMATION:** Olde Ice House Cellars, LLC (Owner) has submitted a building permit application to allow tenant improvements to an existing building located at 27 East Locust Street. As a condition of the building permit (B11-1089), the construction of public improvements is required.

The required public improvements along Locust Street and Main Street include the installation 125 feet of concrete sidewalks, 120 feet of concrete curb and gutter, a curb return, a commercial driveway, 30 feet of 12-inch storm drain pipe, and the replacement/installation of 2,615 square feet of asphalt concrete (Exhibit A). Owner has requested that the required improvements be deferred due to the extra cost to the project. The improvements are not needed at this time because the improvements would create a lack of continuity throughout Main Street.

Owner has executed an Improvement Deferral Agreement and paid the necessary document preparation and recording fees for the agreement. The agreement also states that the owner agrees to pay for and complete the design and installation of the required improvements on Locust Street and Main Street in accordance with City Standards, including payment of engineering and other applicable City fees, at the time of the widening of Main Street, or at the request of the City, whichever occurs first.

Staff recommends approval of the Improvement Deferral Agreement.

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** Property owner funding prior to construction.

F. Wally Sandelin  
Public Works Director

Prepared by Chris Boyer, Junior Engineer  
FWS/CRB/pmf  
Attachment  
cc: Senior Civil Engineer Chang  
Olde Ice House Cellars, LLC

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APPROVED:

Konrad Bartlam, City Manager

City of Lodi  
Publics Works Department

IMPROVEMENT COST  
ESTIMATE FOR  
IMPROVEMENTS

Development: 27 East Locust Street  
Developer:  
Engineer:

Acres:  
Date: 10/5/11

TOTAL COST OF PROJECT IMPROVEMENTS

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Total</u>	<u>Quantity</u>	<u>Total</u>
<b><u>Street System</u></b>							
1	Vertical Curb and Gutter	120	LF	25.00	3,000.00	120	3,000.00
2	Sidewalk <sup>(1)</sup>	1,875	SF	6.00	11,250.00	1,875	11,250.00
3	Curb Return, including Handicap Ramp	1	EA	15,000.00	15,000.00	1	15,000.00
4	Concrete Subgrade Compaction	1,875	SF	3.00	5,625.00	1,875	5,625.00
5	Side Inlet Catch Basin	1	EA	2,272.00	2,272.00	1	2,272.00
6	12" Storm Drain Pipe (RCP)	30	LF	40.00	1,200.00	30	1,200.00
7	Aggregate Base, Class II (0.50')	2,615	SF	0.90	2,353.50	2,615	2,353.50
8	Asphalt Concrete, Type B (0.30')	2,615	SF	2.00	5,230.00	2,615	5,230.00
9	Compact Original Ground (0.50')	2,615	SF	0.20	523.00	2,615	523.00
10	Remove Existing Pavement	2,615	SF	7.00	18,305.00	2,615	18,305.00
11	Street Name Sign & Post	1	EA	511.00	511.00	1	511.00
6	Commercial Driveway (32' wide)	1	EA	3,000.00	3,000.00	1	3,000.00
<b>Subtotal</b>					<b>\$65,269.50</b>	<b>Subtotal</b>	<b>\$68,269.50</b>
Total Construction Cost							\$68,269.50
Engineering & Administration (10% of Construction Costs)							\$6,826.95
Contingencies (10% of Construction Costs)							<u>\$6,826.95</u>
<b>TOTAL COST</b>							<b>A. Total \$81,923.40</b>

1. Assumes replacing sidewalk along Locust Street and Main Street.

WHEN RECORDED, RETURN TO:

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

IMPROVEMENT DEFERRAL AGREEMENT

27 East Locust Street, Lodi, California  
(APN 043-081-03)

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and Olde Ice House Cellars, LLC, a California Limited Liability Company, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as 27 East Locust Street (APN 043-081-03) and described as follows:

Lots 5 and 6 in Block 22 in the City of Lodi, as per Map filed in Book 2 of Maps and Plats, page 12, San Joaquin County Records.

Building application (B 11-1089) has been submitted to allow a tenant improvement to an existing building on the subject property. Installation of public improvements along Locust Street and Main Street are required as a condition of permit issuance in accordance with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.44 of the Lodi Municipal Code. Required improvements include, but are not limited to, the installation 125-feet of concrete sidewalks, 120-feet of concrete curb, gutter, a curb return, a commercial driveway, 30-feet of 12-inch storm drain pipe and the replacement/installment of 2,615 square feet of asphalt concrete. Owner is desirous of complying with existing City ordinances and policies regarding off-site improvements. Owner has requested that the improvements on Locust Street and Main Street be deferred.

Council of the City will approve the deferral of the required Locust Street and Main Street improvements on condition that the Owner first enters into and execute this agreement with City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner agrees to pay for and complete the design and installation of the required improvements on Locust Street and Main Street in accordance with City Standards, including payment for engineering and other applicable City fees, at the time of the widening of Main Street, or at the request of the City, whichever occurs first.
2. Owner agrees to undertake the design and construction of the required improvements within 30 days after written notice is given by the City, subject to Item #1 above, and will complete the required improvements within 120 days from the date of notice.

3. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
4. If Owner fails to complete the required improvements, or make the fee payments as required by Item # 1 of this Agreement within the time period specified in Item #2 above, the City shall be entitled, at its election, to either 1) file suit against Owner, its heirs, successors or assigns, for the full value of the improvements at the time period specific in Item #2 above plus attorney fees, or 2) complete the improvements at the expense of Owner, and file suit against Owner, its heirs, successors or assigns for the costs incurred, plus attorney fees. In either case, the City shall be entitled to file a lien against said property for the full value of the improvement costs.
5. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O.Box 1968, Stockton, California 95201-1968.
6. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

F. Wally Sandelin  
Public Works Director  
City of Lodi  
P. O.Box 3006  
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

Olde Ice House Cellars, LLC  
1620 Edgewood Drive  
Lodi, CA 95240

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation


Dated: \_\_\_\_\_ 2011

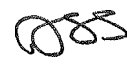
By: \_\_\_\_\_  
Konradt Bartlam, City Manager

Attest: \_\_\_\_\_  
Randi Johl, City Clerk

Olde Ice House Cellars, LLC, a California  
Limited Liability Company

Dated: 10-6-11 2011

 *member*  
*Olde Ice House Cellars LLC*

Approved as to form: \_\_\_\_\_  
D. Stephen Schwabauer  
City Attorney 

Dated: \_\_\_\_\_ 2011

Development: 27 East Locust Street  
Developer:  
Engineer:

Acres:  
Date: 10/5/11

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## ACKNOWLEDGMENT

State of California

County of San Joaquin )

On October 6, 2011 before me, Randi Johl  
(insert name and title of the officer)

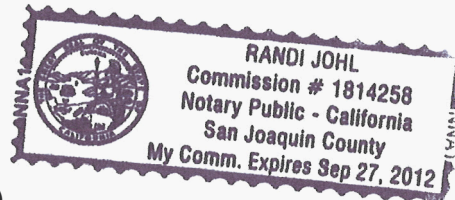
personally appeared C Dean Shabler Jr.,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)



RESOLUTION NO. 2011-178

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING IMPROVEMENT DEFERRAL AGREEMENT  
WITH OLDE ICE HOUSE CELLARS, LLC, FOR  
27 EAST LOCUST STREET

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Improvement Deferral Agreement between the City of Lodi and the Olde Ice House Cellars, LLC, for installation of public improvements for the facility located at 27 East Locust Street; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the agreement on behalf of the City of Lodi.

Dated: November 16, 2011

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I hereby certify that Resolution No. 2011-178 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 16, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Nakanishi, and  
Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None

  
RANDI JOHL  
City Clerk



CITY COUNCIL

BOB JOHNSON, Mayor  
JOANNE L. MOUNCE,  
Mayor Pro Tempore  
LARRY D. HANSEN  
PHIL KATZAKIAN  
ALAN NAKANISHI

**CITY OF LODI**  
**PUBLIC WORKS DEPARTMENT**

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710  
EMAIL [pwdept@lodi.gov](mailto:pwdept@lodi.gov)  
<http://www.lodi.gov>

KONRADT BARTLAM  
City Manager  
RANDI JOHL  
City Clerk  
D. STEVEN SCHWABAUER  
City Attorney  
F. WALLY SANDELIN  
Public Works Director

November 10, 2011

Olde Ice House Cellars, Inc.  
1620 Edgewood Drive  
Lodi, CA 95240

SUBJECT: Adopt Resolution Authorizing City Manager to Execute Improvement  
Deferral Agreement for 27 East Locust Street

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, November 16, 2011. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Randi Johl, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Chris Boyer, Junior Engineer, at (209) 333-6800, extension 3321.



*for:*

F. Wally Sandelin  
Public Works Director

FWS/pmf

Enclosure

cc: City Clerk